

(i) operational requirements articulated in the certification and related to the agency information system would make it excessively burdensome to implement the cybersecurity requirement;

(ii) the cybersecurity requirement is not necessary to secure the agency information system or agency information stored on or transiting it; and

(iii) the agency has taken all necessary steps to secure the agency information system and agency information stored on or transiting it; and

(B) the head of the agency or the designee of the head of the agency has submitted the certification described in subparagraph (A) to the appropriate congressional committees and the agency's authorizing committees.

(3) Construction

Nothing in this section shall be construed to alter the authority of the Secretary, the Director, or the Director of the National Institute of Standards and Technology in implementing subchapter II of chapter 35 of title 44. Nothing in this section shall be construed to affect the National Institute of Standards and Technology standards process or the requirement under section 3553(a)(4) of such title or to discourage continued improvements and advancements in the technology, standards, policies, and guidelines used to promote Federal information security.

(c) Exception

The requirements under this section shall not apply to the Department of Defense, a national security system, or an element of the intelligence community.

(Pub. L. 114-113, div. N, title II, § 225, Dec. 18, 2015, 129 Stat. 2967.)

§ 1524. Assessment; reports

(a) Definitions

In this section:

(1) Agency information

The term “agency information” has the meaning given the term in section 2213 of the Homeland Security Act of 2002 [6 U.S.C. 663].

(2) Cyber threat indicator; defensive measure

The terms “cyber threat indicator” and “defensive measure” have the meanings given those terms in section 1501 of this title.

(3) Intrusion assessments

The term “intrusion assessments” means actions taken under the intrusion assessment plan to identify and remove intruders in agency information systems.

(4) Intrusion assessment plan

The term “intrusion assessment plan” means the plan required under section 2210(b)(1) of the Homeland Security Act of 2002 [6 U.S.C. 660(b)(1)].

(5) Intrusion detection and prevention capabilities

The term “intrusion detection and prevention capabilities” means the capabilities re-

quired under section 2213(b) of the Homeland Security Act of 2002 [6 U.S.C. 663(b)].

(b) Third-party assessment

Not later than 3 years after December 18, 2015, the Comptroller General of the United States shall conduct a study and publish a report on the effectiveness of the approach and strategy of the Federal Government to securing agency information systems, including the intrusion detection and prevention capabilities and the intrusion assessment plan.

(c) Reports to Congress

(1) Intrusion detection and prevention capabilities

(A) Secretary of Homeland Security report

Not later than 6 months after December 18, 2015, and annually thereafter, the Secretary shall submit to the appropriate congressional committees a report on the status of implementation of the intrusion detection and prevention capabilities, including—

(i) a description of privacy controls;

(ii) a description of the technologies and capabilities utilized to detect cybersecurity risks in network traffic, including the extent to which those technologies and capabilities include existing commercial and noncommercial technologies;

(iii) a description of the technologies and capabilities utilized to prevent network traffic associated with cybersecurity risks from transiting or traveling to or from agency information systems, including the extent to which those technologies and capabilities include existing commercial and noncommercial technologies;

(iv) a list of the types of indicators or other identifiers or techniques used to detect cybersecurity risks in network traffic transiting or traveling to or from agency information systems on each iteration of the intrusion detection and prevention capabilities and the number of each such type of indicator, identifier, and technique;

(v) the number of instances in which the intrusion detection and prevention capabilities detected a cybersecurity risk in network traffic transiting or traveling to or from agency information systems and the number of times the intrusion detection and prevention capabilities blocked network traffic associated with cybersecurity risk; and

(vi) a description of the pilot established under section 2213(c)(5) of the Homeland Security Act of 2002 [6 U.S.C. 663(c)(5)], including the number of new technologies tested and the number of participating agencies.

(B) OMB report

Not later than 18 months after December 18, 2015, and annually thereafter, the Director shall submit to Congress, as part of the report required under section 3553(c) of title 44, an analysis of agency application of the intrusion detection and prevention capabilities, including—

(i) a list of each agency and the degree to which each agency has applied the intrusion detection and prevention capabilities to an agency information system; and

(ii) a list by agency of—

(I) the number of instances in which the intrusion detection and prevention capabilities detected a cybersecurity risk in network traffic transiting or traveling to or from an agency information system and the types of indicators, identifiers, and techniques used to detect such cybersecurity risks; and

(II) the number of instances in which the intrusion detection and prevention capabilities prevented network traffic associated with a cybersecurity risk from transiting or traveling to or from an agency information system and the types of indicators, identifiers, and techniques used to detect such agency information systems.

(C) Chief information officer

Not earlier than 18 months after December 18, 2015, and not later than 2 years after December 18, 2015, the Federal Chief Information Officer shall review and submit to the appropriate congressional committees a report assessing the intrusion detection and intrusion prevention capabilities, including—

(i) the effectiveness of the system in detecting, disrupting, and preventing cyber-threat actors, including advanced persistent threats, from accessing agency information and agency information systems;

(ii) whether the intrusion detection and prevention capabilities, continuous diagnostics and mitigation, and other systems deployed under subtitle D¹ of title II of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.) are effective in securing Federal information systems;

(iii) the costs and benefits of the intrusion detection and prevention capabilities, including as compared to commercial technologies and tools and including the value of classified cyber threat indicators; and

(iv) the capability of agencies to protect sensitive cyber threat indicators and defensive measures if they were shared through unclassified mechanisms for use in commercial technologies and tools.

(2) OMB report on development and implementation of intrusion assessment plan, advanced internal defenses, and Federal cybersecurity requirements

The Director shall—

(A) not later than 6 months after December 18, 2015, and 30 days after any update thereto, submit the intrusion assessment plan to the appropriate congressional committees;

(B) not later than 1 year after December 18, 2015, and annually thereafter, submit to Congress, as part of the report required under section 3553(c) of title 44—

(i) a description of the implementation of the intrusion assessment plan;

(ii) the findings of the intrusion assessments conducted pursuant to the intrusion assessment plan;

(iii) a description of the advanced network security tools included in the efforts to continuously diagnose and mitigate cybersecurity risks pursuant to section 1522(a)(1) of this title; and

(iv) a list by agency of compliance with the requirements of section 1523(b) of this title; and

(C) not later than 1 year after December 18, 2015, submit to the appropriate congressional committees—

(i) a copy of the plan developed pursuant to section 1522(a)(2) of this title; and

(ii) the improved metrics developed pursuant to section 1522(c) of this title.

(d) Form

Each report required under this section shall be submitted in unclassified form, but may include a classified annex.

(Pub. L. 114–113, div. N, title II, § 226, Dec. 18, 2015, 129 Stat. 2969; Pub. L. 115–278, § 2(h)(1)(F), Nov. 16, 2018, 132 Stat. 4182.)

Editorial Notes

REFERENCES IN TEXT

Subtitle D of title II of the Homeland Security Act of 2002, referred to in subsec. (c)(1)(C)(ii), is subtitle D (§§ 231–237) of title II of Pub. L. 107–296, Nov. 25, 2002, 116 Stat. 2159, which enacted part D (§161 et seq.) of subchapter II of chapter 1 of this title and amended sections 10102 and 10122 of Title 34, Crime Control and Law Enforcement. Subtitle D was redesignated subtitle C of title II of the Homeland Security Act of 2002 by Pub. L. 115–278, § 2(g)(2)(K), Nov. 16, 2018, 132 Stat. 4178, and is classified principally to part C (§161 et seq.) of subchapter II of chapter 1 of this title. For complete classification of subtitle C to the Code, see Tables.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115–278, § 2(h)(1)(F)(i)(I), substituted “section 2213” for “section 230” and struck out before period at end “, as added by section 223(a)(6) of this division”.

Subsec. (a)(4). Pub. L. 115–278, § 2(h)(1)(F)(i)(II), substituted “section 2210(b)(1)” for “section 228(b)(1)” and struck out before period at end “, as added by section 223(a)(4) of this division”.

Subsec. (a)(5). Pub. L. 115–278, § 2(h)(1)(F)(i)(III), substituted “section 2213(b)” for “section 230(b)” and struck out before period at end “, as added by section 223(a)(6) of this division”.

Subsec. (c)(1)(A)(vi). Pub. L. 115–278, § 2(h)(1)(F)(ii), substituted “section 2213(c)(5)” for “section 230(c)(5)” and struck out “, as added by section 223(a)(6) of this division” after “Homeland Security Act of 2002”.

§ 1525. Termination

(a) In general

The authority provided under section 663 of this title, and the reporting requirements under section 1524(c) of this title shall terminate on the date that is 7 years after December 18, 2015.

(b) Rule of construction

Nothing in subsection (a) shall be construed to affect the limitation of liability of a private entity for assistance provided to the Secretary under section 663(d)(2)¹ of this title, if such as-

¹ See References in Text note below.

¹ So in original. Probably should be “663(c)(2)”.